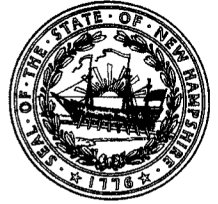




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

June 15, 2005

SAU 20
Attn: Pauline Plourde
123 Main Street
Gorham, NH 03581

Re: Docket No. AF 04-102 Motion to Accept Settlement Agreement

Dear Ms. Plourde:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on June 15, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael P. Lafani,
Legal Assistant

cc: Anthony P. Giunta, PG., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Lynn Woodard, DES WMD
Thomas Beaulieu, DES WMD
Susan Hanamoto, DES WMD

SAU 20
Attn: Pauline Plourde
123 Main Street
Gorham, NH 03581

Re: Gorham High School, 120 Main Street
Gorham, NH UST ID # 0-112988

**ADMINISTRATIVE FINE
No. AF 04-102**

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and SAU 20 parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. SAU 20 is the registered facility owner of one underground storage tank ("UST") system at the Gorham High school Facility ("the Facility"), further identified as UST # 0-112988, located on real property at 120 Main Street in Gorham, NH ("the Property").
3. On December 9, 2004, the Division issued Notice of Proposed Administrative Fine No. AF 04-102 ("the Notice") to SAU 20 seeking fines totaling \$1,700 for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
4. Specifically, the Notice cited SAU 20 for violating Env-Wm 1401.11(a) by failing to conduct inventory monitoring or conduct an annual tightness test. Pursuant to Env-C 607.05(a) the Division sought a fine of \$500.
5. The Notice further cited SAU 20 for violating Env-Wm 1401.20 by failing to obtain approval for the substantial modification of the existing UST system piping. Pursuant to Env-C 607.03(a), the Division sought a fine of \$1,000.
6. The Notice further cited SAU 20 for violation of Env-Wm 1401.25(d) by failing to properly install and maintain overfill protection equipment on the UST system. Pursuant to Env-C 607.05(j), the Division sought a fine of \$200.
7. In order to settle this matter, the Division and SAU 20 have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
8. Of the proposed fine, in the amount of \$1,700, 20% or \$340 shall be suspended due to the SAU 20's history of compliance at this facility. An additional 20% or \$340 shall be suspended due to the SAU 20's good faith effort to return this facility to compliance. An additional 20% or \$340 shall be suspended due to SAU 20's prompt and consistent cooperation in providing

information and correcting the violations.

9. The suspended portion of the proposed fine, in the amount of \$1,020 is contingent upon SAU 20 maintaining the subject UST facility in compliance with Env-Wm 1401 for a period of two years from the date of the execution of this document. If SAU 20 fails to maintain compliance during the two-year period, the suspended portion of the fine, in the amount of \$1,020 shall become due and payable immediately. If SAU 20 maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived.

10. SAU 20 agrees to pay the remaining \$680 upon execution of this agreement by an authorized representative of SAU 20.

11. Payment under Paragraph #10 and any payment that becomes due pursuant to Paragraph #9 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

12. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

13. By executing this Agreement, SAU 20 waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

14. The effective date of this Agreement will be the date on which it is signed by an authorized representative of SAU 20, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

15. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,
School Administrative Unit # 20

6-6-05
Date

COPY
By: _____
Duly Authorized

DES Waste Management Division

6/14/05
Date

COPY
Anthony P. Giunta, P.G., Director

This Motion to Accept Settlement agreement is granted this 15th day of June, 2005.

COPY
for Michael P. Nolin, Ass't. Comm.
Michael P. Nolin, Commissioner
Department of Environmental Services